

# **WHAT DO I DO WHEN MY CLIENT CALLS AFTER A DUI ARREST?**

**BY  
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When a person is arrested he or she usually thinks of calling their lawyer. It does not matter to them if their lawyer is counsel to their corporation, wrote their will, got them a divorce or even put together the multi-million dollar merger of their company. They are in trouble; and, they turn first and foremost to whom they have grown to trust and respect - you, their lawyer!

What do you do when your client calls and tells you they were arrested for a DUI? You remember a few things about criminal law and procedure from law school; but that was awhile ago. You also know that you want to give them some immediate advice that will assist until you can locate competent DUI defense counsel. Worse yet, what do you do if they call you from jail? How can you best assist and serve them under these circumstances?

If you are lucky not to receive the 2:00 a.m. client phone call; but rather, get the call during normal business hours, whatever those may be, which in the normal practice of law might easily stretch well into the night, then you may want to first identify why the client was arrested and what specifically are the actual charges. Most DUI cases consist of two charges: 23152(a) driving under the influence; and, 23152(b) driving with a 0.08% or more blood alcohol level. Both are misdemeanors and carry the exact same sentence and punishment. You cannot be sentenced to two punishments, even if convicted of both offenses, but to get out of the DUI consequences you have to beat both of those charges.

If an accident was involved and someone was injured, then the charges could be 23153 (a) driving under the influence causing injury; and or 23153(b) driving with a blood alcohol level at 0.08% or more and causing injury. If a serious injury resulted, then the client may be facing felony prosecution.

Next, determine if they are still in custody, still being held in the jail, or if they were released, either by posting bail or release on their promise to appear by simply signing a citation. If they are still in custody, which will definitely be the case for the 2:00 a.m. calls, then you should tell them first and foremost under no circumstances should they make any statements to the police without first having counsel present. No statements means no statements!

Next determine if the charge is truly a misdemeanor and not a felony. Felony DUI is usually connected to a fourth offense or a serious injury even if it is still a first time arrest.

If the charge is a misdemeanor then they are usually going to be released without posting bail. Tell them to sit tight, keep quiet and that they will be released probably within four to five hours or so. If the police will not issue a citation release, then see if there is anyone they can tell you who would be willing and able to post bail for them. **YOU SHOULD NOT PERSONALLY POST BAIL FOR YOUR CLIENT.**

If the charge or charges are felonies then it is unlikely that they will be released through their own recognizance at this point and may have to spend the night in jail, unless they can post bail. Even here I would caution you in rushing to post bail, simply because the bail will probably be high and can, in all probability be lower with an application to the court, either through the duty judge or at or after arraignment. Obviously, the circumstances of both the

client and the situation will dictate what appropriate steps should be followed.

The next thing to be aware of is the fact that under the *per se* Suspension Act in all likelihood the arresting officer probably took their driver's license on the spot at the time of arrest. If so, then they should have been issued a pink Notice of Suspension and a Temporary License. You only have ten (10) days from the date of being served with the Notice of Suspension to request a hearing before the Department of Motor Vehicles, otherwise your client could lose their license for 4 months if is a first offense (a year if they refused a test) or one (1) to two (2) years if he or she is a multiple offender. Do not call the DMV for them unless you are going to represent them or unless the time is about to run. They will have time to speak with counsel and decide what type of hearing to request and the timing of such hearing.

Now refer them to a DUI defense specialist. Many tactical decisions need to be examined and made regarding the type and timing of the requested DMV hearing; as well as the overall approach to the criminal defense case.

At this point you have done your job. Now just get them to the right lawyer. Who is the right lawyer depends upon what the client will be looking for regarding the outcome of his or her case. Call a criminal defense lawyer that you might know and ask them who specializes in DUI defense. If you do not know a criminal lawyer, ask around, other lawyers will certainly give you some names who can lead you in the right direction. Also go on the internet to the National College for DUI Defense, [www.ncdd.com](http://www.ncdd.com), there you will find a listing of the members in you state who usually practice nothing but DUI defense. Look at the lawyer's background and standing in the defense community, their experience and reputation as you would in evaluating any lawyer. Now you have done your client the best service.